UNITED STATES PATENT AND TRADEMARK OFFICE

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10/699,770	11/04/2003	Todd C. Werden	YOR920030566 (00280761AA)	5896

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EXAMINER
NGUYEN, THUY-VI THI

ART UNIT	PAPER NUMBER
3689	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-11* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____ .
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

/Janice A. Mooneyham/

DETAILED ACTION

Examiner's Comments

1.   This action is in response to applicant's amendment received on

12/12/2007.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   **Claims 1-11** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Wargon (US 2004/0153283) in view of Arnarson et al. (US Patent No.

5,184,733) (hereinafter referred to as Arnarson).

        Regarding claim 1, Wargon discloses: an apparatus to determine prices

of products priced by weight comprising:

        a database of lookup tables of densities of a plurality of products;

[...*density factor for particular type of item is obtained electronically from a look-

up-table*; par. 0011]; and

        a computer terminal which receives product type and volume of the

product information and accesses the database to determine a density for the

product, the computer terminal computing a weight of the product as a function of

volume and density of the product and then computing a price of the product as a

function of price/weight ratio [...*microprocessor receives the signal and calculate*

the cumulative volume of the item; look up-table for the density factor of the item;

volume calculation is converted into numeric weight values; pars 0010, 0011,

0012].

However, Wargon does not explicitly disclose a camera for carrying out

the function/steps of the claimed invention.

Arnarson discloses a camera for detecting and identifying a product by

type [...*camera (1) records the objects; (col. 1, lines 64-68; col. 2, lines 25-33;*

and figure 1)]; means for determining a volume of the product based on image

information from the camera [...*data of the recorded image is transmitted from*

the camera to microprocessor (9) to analyzes the images and determines the

weight and volume of the object; col. 2,lines 1-7 and lines 43-45; figure 1];

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to incorporate into the method and system of determine

the volume, density and price for the product of Wargon with the calculating

volume based on the image of product using a camera as taught in Arnarson to

provide a computation of weight (or cost) more simpler, accurate and quicker

(Arnarson; col. 1, lines 60-63).

Regarding claim 2, Wagon discloses the apparatus is part of a checkout

station in a retail store [par. 0005 and figure 1].

Regarding claim 3, Wargon discloses a display connected to the computer which displays the calculated price of the product [...*display screen (30)*; par. 0093 and figure1].

Regarding claim 4, Wargon discloses wherein the computer generates a running total of prices for a plurality of products as part of a single transaction and displays the running total on the display [...*cumulative volume calculations are converted into numeric weight values (prices)*; par. 0011 and figure 1 (display 30)].

Regarding claim 5, Wargon discloses further comprising a connected to the computer which prints the running total [...*printer devices (188)*; par. 0172 and figure 1B].

Regarding claim 6, Wargon discloses computer terminal categorizes the product within one of a plurality of weight ranges, the price of the product being a function of the weight ranges [par. 0011].

Regarding claim 7 Wargon discloses a method of determining a product weight and calculating price comprising the steps of:

accessing a database of densities of a plurality of products and determining a density for the detected and identified product [...*memory stored density factor for the particular type of item; density of each type of item is recorded in the signal processor 300 memory*; par. 0011; par. 0134];

calculating a weight of the product as a function of volume and density of

the product [...*volume calculations may be converted into numeric weight values*;

par. 0011; par. 0134].

calculating a price of the product as a function of the calculated weight

and price/weight ratio [...*cost for each segment may also be calculated by*

multiplying the segment weight value by the input cost per unit weight value; par.

0011 and par. 0093; par. 0134].

However, Wargon does not explicitly disclose a camera for carrying out

the function/steps of the claimed invention.

Arnarson discloses detecting a product with a camera [...*camera (1)*

records the objects; (col. 1, lines 64-68; col. 2, lines 25-33 and figure 1)];

identifying the product by type [...*It is considered that image that camera is*

captured by it self is identified the type of product; lines col. 2, lines25-32; col. 3,

lines 1-4; figure 1];

determining a volume of the product from an image of the product [...*data*

of the recorded image is transmitted from the camera (9) to analyzes the images

and determines the weight and volume of the object to microprocessor; col. 2,

lines 1-7 and lines 43-45; figure 1].

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to incorporate into the method and system of determine

the volume, density and price for the product of Wargon with the calculating

volume based on the image of product using a camera as taught in Arnarson to

provide a computation of weight (or cost) more simpler, accurate and quicker

(Arnarson; col. 1, lines 60-63).

Regarding claim 8, Mohan discloses further comprising the step of

displaying the calculated price of the product [...*display screen (30);* par. 0093

and figure1].

Regarding claim 9, Mohan discloses further comprising the step of

generating a running total of prices for a plurality of products as part of a single

transaction [...*cumulative volume calculations are converted into numeric weight*

values (prices); par. 0011 and figure 1 (display 30)].

Regarding claim 10, Mohan discloses further comprising the step of

printing the running total upon completing of the transaction [...*printer devices*

(188); par. 0172 and figure 1B].

Regarding claim 11, Mohan discloses further comprising the step of

categorizing the product within one of a plurality of weight ranges, the price of the

product being a function of the weight ranges [par. 0011].

Response to Arguments

4.   Applicant's arguments with respect to claims 1-11 have been considered

but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thuy-Vi Nguyen/

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3629